

REMARKS

Claims 1, 5, 13 and 21 are amended herein for form and to ensure appropriate antecedent basis. In addition, claim 5 is amended to include subject matter of dependent claim 10 (and dependent claim 10 is cancelled to avoid redundancy), and claim 13 is amended to include subject matter of dependent claim 18 (and dependent claim 18 is cancelled to avoid redundancy). Dependent claims 6, 8, 14 and 16 are also amended for further consistency with the corresponding base claim. No new matter is added by the claim amendments.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Machover et al. (U.S. Patent No. 5,650,583). This rejection is respectfully traversed, as follows.

Claim 1 recites an automatic performance system that includes features that are neither described nor suggested by Machover et al. For example, the automatic performance system of claim 1 includes (among other features) a pattern sequence storage means for storing pattern sequence data representing a sequence of said performance patterns." (Underlines added for emphasis.) Claim 1 is amended to further recite that the pattern sequence data includes identifiers of performance patterns in the sequence. In addition, the automatic performance system of claim 1 includes a "modification means for modifying the pattern sequence data to substitute in the pattern sequence data, an identifier of the new performance pattern for the identifier of the performance pattern from which it was created." (Underlines added for emphasis.)

In contrast, Machover et al. do not describe or suggest storing data representing a sequence of performance patterns and then substituting in the stored pattern sequence data, the identifier of a new performance pattern. Instead, Machover et al. describe changing a current pattern and storing the changed (new) pattern in the assign memory 2, in a manner so that the new pattern may be read out by actuating one of the keys in the pattern assign area of the keyboard (E0 to B1 in Fig. 4 of the Machover et al. patent). Machover et al.'s teaching of changing a current pattern, storing the changed pattern, and then assigning a key (E0 to B1) to the changed pattern does not teach or suggest the invention of claim 1, including substituting in a stored pattern sequence data, an identifier of a new performance pattern.

By substituting an identifier of a new performance pattern (for one of the original performance patterns) in a stored sequence of performance patterns, the sequence of performance patterns may be read out (in the order of the sequence) with the modified (new) performance pattern in that sequence. In contrast, Machover et al.'s teaching of modifying an original pattern and assigning the modified (new) pattern to one of the keyboard keys does not meet or suggest substituting an identifier in data representing a stored sequence of performance patterns. Moreover, Machover et al.'s system would not provide the above-noted benefits.

The Examiner stated that the method (or system) by which Machover associates the modified pattern with the keys is functionally equivalent to an "identifier." The Examiner further stated that the activation of a key must, in some way, "identify" the corresponding pattern. However, the characterization of Machover et al.'s keys to an "identifier" does not address the invention of claim 1, including a pattern sequence storage means for storing pattern sequence data representing a sequence of said performance patterns, and modification means for modifying the pattern sequence to substitute in the pattern sequence data, the identifier of the new performance pattern for the identifier of the performance pattern from which it was created." Associating a modified pattern with a keyboard key does not involve substituting an identifier in a pattern sequence that is stored by a pattern sequence storage means. Accordingly, the invention recited in claim 1 is neither described nor suggested by Machover et al.

Similar comments apply to amended claims 5 and 21. In particular, claim 5, as amended, recites a programmable device that includes a computer readable medium storing programming code for controlling the device to perform processing comprising, among other features, storing pattern sequence data representing a sequence of said performance patterns. Claim 5 is amended to further recite that the pattern sequence data including identifiers of performance patterns in the sequence. The processing of claim 5 further includes updating at least one of the performance patterns in the sequence data to create a new performance pattern; and modifying the pattern sequence data to substitute in the pattern sequence data, an identifier of the new performance pattern for the identifier of the performance pattern from which it was created. As described above, Machover et al. do not involve substituting an identifier in stored pattern sequence data. Similar comments apply to the method of claim 21. Accordingly, for reasons similar to those

discussed above for claim 1, it is submitted that the invention of each of claims 5 and 21 is also neither described nor suggested by the Machover et al. reference.

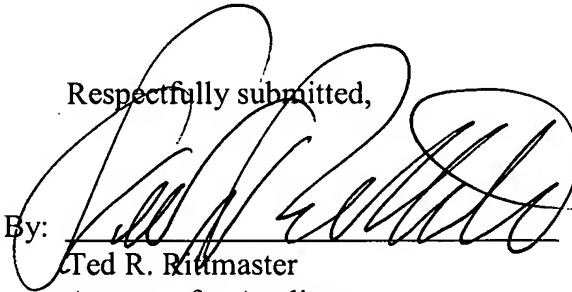
In view of the foregoing, it is submitted that the application is in condition for allowance. Re-examination and reconsideration of the application, as amended, are requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

By:



Ted R. Rittmaster

Attorney for Applicant

Registration No. 32,933

Date: January 11, 2007

FOLEY & LARDNER LLP

Customer Number: 23392

Telephone: (310) 975-7963

Facsimile: (310) 557-8475